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September 14, 2023

The Honorable Lewis J. Liman
United States District Judge
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse 500 Pearl Street
New York, New York 10007-1312

RE: Gong v. Sarnoff Case No. 23-cv-00343 (LJL)

Dear Judge Liman:

As you know, I am one of the counsel for the Plaintiff in the above-referenced matter. I am compelled to submit this letter to respond to the recent letter from Attorney Dan Rottenstreich, dated today. Attorney Rottenstreich's letter presents a series of inaccuracies, inconsistencies, and thinly veiled character attacks against the undersigned in an attempt to unduly prejudice the Court. We also question the appropriateness of abusing the option for writing a letter to the Court instead of filing a motion or pleading, as Rottenstreich is attempting to avoid submitting a sworn pleading or motion. We believe that this was done in an obvious attempt to avoid answering with a pleading under oath, which to the Plaintiffs suggests that this Defendant has things to hide.

First, by way of background, attached as "Exhibit A" are photos of the vehicle that struck the Plaintiff, as described in the Complaint. In order to identify and locate the defendant, the Plaintiff retained an investigator to locate the name of the owner of the vehicle, and the result was that the current Defendant Stanton was identified, including the address at which service of process was in fact effectuated. License Plate Verification report provided by the investigator is attached as "Exhibit B." Although it is unlikely to be the case, if the DMV records are wrong, neither the Plaintiff, nor Plaintiff's Counsel, is at fault. But up until the present moment, we have seen no evidence to suggest that the information was wrong.

Second, I have been in the midst of moving to a new home, therefore it wasn't until last night (September 13) I discovered Mr. Rottenstreich's letter of September 6 (in my junk folder), and frankly I was shocked by its tone and the intellectual dishonesty of its assertions, because we had personally spoken (myself and Mr. Rottenstreich) several times and exchanged several emails.

When he more recently requested that we consent to withdraw the motion, or something similar, and I asked him instead to file a response to the Plaintiff's motion for default, in consideration of the fact that Your Honor had specifically ordered the undersigned file the currently pending motion for default, and I "did not feel comfortable" stiping it out. See email chain between Freeth and Rottenstreich attached as "Exhibit C" and "D".

I also note a glaring internal inconsistency in Rottenstreich's letter -- in that he asserts that his Carl Stanton is the wrong Carl Stanton, and yet he somehow claims knowledge of the facts, such that he claims the facts alleged in the Complaint are "far-fetched". If we are to believe his assertion that his client has no connection to the alleged facts, then Rottenstreich has no factual basis to assert that any part of the case is untrue.

The Plaintiff strongly opposes any conference prior to Defendant's submission of a response to the Plaintiff's motion for default and complaint. If Rottenstreich truly believes that there is some mistaken identity then he should so state in a responsive pleading, subject to the requirements of Rule 11, and any other Rules requiring Counsel's candor with the Court. It would appear to us that Mr. Stanton is indeed the correct Defendant, and Rottenstreich is attempting some legal slight of hand to obfuscate the issue so that the issue is never resolved as a matter of record.

Another detail that Rottenstreich is hoping to gloss over is the fact that Defendant Stanton flagrantly ignored this case for months, and is in fact in default, despite having been duly served with the initial complaint, having actual notice of the case and repeated contacts with his cceo. Defendant Stanton simply needs to provide a responsive pleading to the operative Complaint.

Sincerely,



Richard N. Freeth

CC: Yongbing Zhang